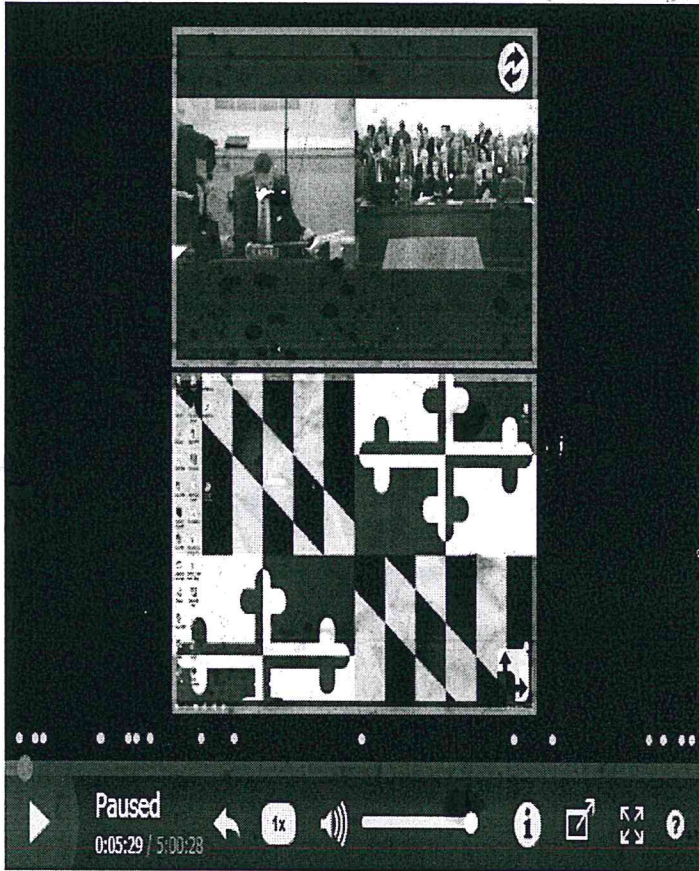


Environment and Transportation Committee (3/3/2020)



Meeting Items

JillianLard@yahoo.com

Number	Title	Sponsor	Status
HB0121	St. Mary's County - Metropolitan Commission - Nonsubstantive and Clarifying Revisions	St. Mary's County Delegation	Completed
HB0360	Ethics and Accountability in Government Act	The Spkr (Admin), et al	Completed
HB0394	Maryland-National	PG Co	Completed

Please view my testimony at the House of Delegates. Start from 5:28 thru 10:10
 Thank you

P.S. Please forgive the late submission. I was mistakenly under the impression that House Bills were read before State.

SB283

Ethics and Accountability in Government

Good Afternoon,

I would first like to say that I am here as a private Maryland citizen and not a State employee. Therefore, anything I claim or state begins with **"I've been told"**.

The title of this bill, **"Ethics and Accountability in Government"** immediately caught my attention and gained my support even before I knew of its contents.

However, I have since read and re-read the information contained within, and while I agree with the intent of this bill, I do not believe that it covers those who need the most monitoring, such as *"State employees"* who obtained their jobs due to political appointment, or those who serve at the pleasure of the Appointing Authority, for example:

- Executive Directors
- Commissioners
- Chief of Staff
- Secretary
- and other positions throughout State agencies known by different names and titles

because they call attention to the **hypocrisy** of the actions carried out by those who hold positions and titles such as the ones I previously named, myself included.

- Bullying
- Coercion
- Discrimination (**to include salary discrimination**)
- Hostile work environment
- Harassment
- Intimidation
- Ostracism
- Public degradation, and
- Retaliation – which can range from character assassination, retaliation via Performance Evaluation Plans aka PEP reviews, up to the termination of an employee

Unethical practices by management , where words such as “*property of the State*” are illicitly used by those in authority to confiscate, seize and suppress evidence and supporting documentation, in order to cover up their illegal activities (*so I've been told*).

However, there will always be individuals like me (your shy introverts) who will rise up, stand up and speak up because of the ongoing corruption, discrimination, illegal activities and unethical practices from individuals like you.

That being said, the question on every private citizen's mind is whether or not you will pass this bill As-Is...or will you take a **bold** stand and make the necessary modifications.

Finally, I would like to leave you with one of my favorite quotes from Dr. Martin Luther King Jr. "***The Ultimate measure of a man is not where he stands in moments of Comfort and Convenience, but where he stands at times of Challenge and Controversy.***"

Thank you.

3-301. Definitions.

- (a) *In general.* - In this subtitle the following words have the meanings indicated.
- (b) *Employer.* -
- (1) "Employer" means:
 - (i) a person engaged in a business, industry, profession, trade, or other enterprise in the State;
 - (ii) the State and its units;
 - (iii) a county and its units; and
 - (iv) a municipal government in the State.
 - (2) "Employer" includes a person who acts directly or indirectly in the interest of another employer with an employee.
- (c) "Gender Identity" has the meaning stated in § 20-101 of the State Government Article. ("Gender identity" means the gender-related identity, appearance, expression, or behavior of a person, regardless of the person's assigned sex at birth, which may be demonstrated by consistent and uniform assertion of the person's gender identity; or any other evidence that the gender identity is sincerely held as part of the person's core identity.)
- (d) *Wage.* -
- (1) "Wage" means all compensation for employment.
 - (2) "Wage" includes board, lodging, or other advantage provided to an employee for the convenience of the employer.

3-302. Scope of subtitle.

This subtitle applies to an employer of both men and women in a lawful enterprise.

3-303. Miscellaneous powers of Commissioner.

In addition to any powers set forth elsewhere, the Commissioner may:

- (1) use informal methods of conference, conciliation, and persuasion to eliminate pay practices that are unlawful under this subtitle; and
- (2) supervise the payment of a wage owing to an employee under this subtitle.

3-304. Equal pay for equal work.

- (a) In this section, "providing less favorable employment opportunities" means:
- (1) Assigning or directing the employee into a less favorable career track, if career tracks are offered, or position;
 - (2) Failing to provide information about promotions or advancement in the full range of career tracks offered by the employer; or
 - (3) Limiting or depriving an employee of employment opportunities that would otherwise be available to the employee but for the employee's sex or gender identity.
- (b) (1) *In general.* - An employer may not discriminate between employees in any occupation by
- (i) paying a wage to employees of one sex or gender identity at a rate less than the rate paid to employees of another sex or gender identity if both employees work in the same establishment and perform work of comparable character or work on the same operation, in the same business, or of the same type; or
 - (ii) providing less favorable employment opportunities based on sex or gender identity.
- (2) For purposes of paragraph (1)(i) of this subsection, an employee shall be deemed to work at the same establishment as another employee if the employees work for the same employer at workplaces located in the same county of the state.
- (c) *Effect of requirement.* - Except as provided in subsection (d) of this section, subsection (b) of this section does not prohibit a variation in a wage that is based on:
- (1) a seniority system that does not discriminate on the basis of sex or gender identity;
 - (2) a merit increase system that does not discriminate on the basis of sex or gender identity;
 - (3) jobs that require different abilities or skills;
 - (4) jobs that require the regular performance of different duties or services;
 - (5) work that is performed on different shifts or at different times of day;
 - (6) a system that measures performance based on a quality or quantity of production; or
 - (7) a bona fide factor other than sex or gender identity, including education, training, or experience in which the factor:

3-305. Records and reports.

- (a) (1) Each employer shall keep each record that the Commissioner requires on:
- (i) wages of employees;
 - (ii) job classifications of employees; and
 - (iii) other conditions of employment.
- (2) An employer shall keep the records required under this subsection for the period of time that the Commissioner requires.
- (b) On the basis of the records required under this section, an employer shall make each report that the Commissioner requires.

3-306. Copies and posting of subtitle.

- (a) *Copies.* - On request of an employer, the Commissioner shall provide without charge a copy of this subtitle to the employer.
- (b) *Posting.* - Each employer shall keep posted conspicuously in each place of employment a copy of this subtitle.
- (c) The Commissioner, in consultation with the Maryland Commission on Civil Rights, shall develop educational materials and make training available to assist employers in adopting training, policies, and procedures that comply with the requirements of this subtitle.

3-306.1. Enforcement

- (a) Whenever the Commissioner determines that this subtitle has been violated, the Commissioner shall:
- (1) try to resolve any issue involved in the violation informally by mediation; or
 - (2) ask the Attorney General to bring an action on behalf of the applicant or employee.
- (b) The Attorney General may bring an action under this section in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

3-307. Action against employer by or for employee.

- (a) *Action by employee.*
- (1) If an employer knew or reasonably should have known that the employer's action violates § 3-304 of this subtitle, an affected employee may bring an action against the employer for injunctive relief and to recover the difference between the wages paid to employees of one sex or gender identity and the wages paid to employees of another sex or gender identity who do the same type work and an additional equal amount as liquidated damages.
 - (2) If an employer knew or reasonably should have known that the employer's action violates § 3-304.1 of this subtitle, an affected employee may bring an action against the employer for injunctive relief and to recover actual damages and an additional equal amount as liquidated damages.
 - (3) An employee may bring an action on behalf of the employee and other employees similarly affected.
- (b) *Assignment of claims.* - On the written request of an employee who is entitled to bring an action under this section, the Commissioner may:
- (1) take an assignment of the claim in trust for the employee;
 - (2) ask the Attorney General to bring an action in accordance with this section on behalf of the employee; and
 - (3) consolidate 2 or more claims against an employer.
- (c) *Limitations period.* - An action under this section shall be filed within 3 years after the employee receives from the employer the wages paid on the termination of employment under § 3-505(a) of this title.
- (d) *Defense.* - The agreement of an employee to work for less than the wage to which the employee is entitled under this subtitle is not a defense to an action under this section.
- (e) *Costs.* - If a court determines that an employee is entitled to judgment in an action under this section, the court shall allow against the employer reasonable counsel fees and other costs of the action, as well as prejudgment interest in accordance with the Maryland Rules.

3-308. Prohibited acts; penalties.

- (a) *Prohibited acts of employer.* - An employer may not:
- (1) willfully violate any provision of this subtitle;
 - (2) hinder, delay, or otherwise interfere with the Commissioner or an authorized representative of the Commissioner in the enforcement of this subtitle;
 - (3) refuse entry to the Commissioner or an authorized representative of the Commissioner into a place of employment that the Commissioner is authorized under this subtitle to inspect; or



The State of Maryland

Executive Department

EXECUTIVE ORDER
01.01.2015.08
(Amends Executive Order 01.01.2015.07)

Standards Of Conduct For Executive Branch Employees And Reporting Of Misconduct

WHEREAS, Everyone who enters into public service for the State of Maryland has a duty to maintain the highest standards of integrity in Government;

WHEREAS, Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain;

WHEREAS, Marylanders have the right to expect honest and honorable conduct in the performance of State business, free of the existence or perception of any corruption or other misconduct;

WHEREAS, It is imperative that any criminal or unethical conduct by any State employee or contractor be promptly reported to the appropriate authorities for investigation; and

WHEREAS, All Maryland State employees, regardless of position or pay, and all State contractors should act in accordance with both letter and spirit of the laws and regulations of this State.

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY AMEND EXECUTIVE ORDER 01.01.2015.07 AND PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. An employee shall not, except as permitted by applicable law or regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially

L. Employees shall endeavor to avoid any actions creating the appearance of any impropriety or that violate applicable laws, regulations, and ethical standards.

M. Employees shall conduct intra-agency and interagency relations with civility, collaboration, and cooperation. These same principles shall apply to interactions with officials and employees of the legislative and judicial branches.

N. Upon leaving state service, executive branch employees shall be bound by the restrictions of the Annotated Code of Maryland, [State Government] GENERAL PROVISIONS Article, Section [15-504] 5-504, with respect to lobbying and other forms of representation.

O. All departments and agencies of the State shall immediately refer to the Principal or Deputy Counsel of the department or agency or to the Deputy Attorney General with supervisory responsibility for the Attorney General's Criminal Investigations Division, any instance of possible criminal or unethical conduct by any employee or contractor of this State, for such action as the Office of the Attorney General deems appropriate. All departments and agencies shall also immediately advise the Chief Legal Counsel to the Governor of any such referrals.

P. All departments and agencies shall require each employee to report to the Secretary or Director of such department or agency as to any arrest of an employee and as to each legal proceeding in which an employee is involved, as a party or otherwise, if the arrest or legal proceeding affects, or reflects on, the employee's job fitness or performance.

Q. Consistent with all applicable substantive and procedural laws, violations of this Executive Order are grounds for employee disciplinary action, including termination from State employment.

WHISTLEBLOWER LAW

Subtitle 3. Maryland Whistleblower Law in the Executive Branch of State Government.

§ 5-301. Applicability.

This subtitle applies to all employees and State employees who are applicants for positions in the Executive Branch of State government, including a unit with an independent personnel system.

§ 5-302. Effect of subtitle.

- (a) *Effect on legal actions.* – This subtitle does not preclude action for defamation or invasion of privacy.
- (b) *Effect on personnel actions.* – This subtitle does not prohibit a personnel action that would have been taken regardless of a disclosure of information.

§ 5-303. Regulations.

The Secretary shall adopt regulations for processing and resolving complaints brought under this subtitle.

§ 5-304. Notice of subtitle.

The head of each principal unit shall provide the employees of the unit with written notice of the protections and remedies provided by this subtitle.

§ 5-305. Disclosure of Information – Reprisal prohibited.

Subject to the limitations of § 5-306 of this subtitle, a supervisor, appointing authority, or head of a principal unit may not take or refuse to take any personnel action as a reprisal against an employee who:

- (1.) discloses information that the employee reasonably believes evidences:
 - (i) an abuse of authority, gross mismanagement, or gross waste of money;
 - (ii) a substantial and specific danger to public health and safety; or
 - (iii) a violation of law; or
- (2.) following a disclosure under item (1) of this section seeks a remedy provided under this subtitle or any other law or policy governing the employee's unit.

§5-309. Filing of complaints; actions on compliant.

- (a) *Who may file; time requirements.* – (1) An employee subject to this subtitle may file with the Secretary a compliant that alleges a violation of §5-305 of this subtitle.
(2) A complaint under this subtitle must be filed within 6 months after the complainant first knew of or reasonably should have known of the violation.
- (b) *Notice of complaint; response.* – When a complaint is received, the Secretary or designee promptly shall:
(1) send a copy of the complaint to the head of the principal unit named in the compliant; and
(2) advise the head of the principal unit to respond in writing to the complaint within 20 days after receiving the copy.
- (c) *Investigation; action upon complaint; written decision.* – Within 60 days after a compliant is received.
(1) the complaint shall be investigated to determine whether a violation of §5-305 of this subtitle has occurred:
(i) by the Secretary or designee of the Secretary; or
(ii) if the Department is charged in the complaint, by a designee of the Governor;
and
(2) the Secretary or designee or the Governor designee shall:
(i) take the action described in subsection (d)(1) or (2) of this section;
and
(ii) issue to the complainant and of the principal unit a written decision that a violation has occurred; the Secretary or designee shall take appropriate remedial action.
- (d) *Disposition by Secretary.* – (1) If the Secretary or designee or the Governor's designee determines that a violation has not occurred, the Secretary or Governor's designee shall dismiss the compliant.
(2) If the Secretary or designee of the Governor's designee determines that a violation has occurred, the Secretary or designee shall take appropriate remedial action.
- (e) *Permissible remedial actions.* – As a remedial action for a violation of § 5-305 of this subtitle, the Secretary or designee may:
(1) Order the removal of any related detrimental information from the complainant's State personnel records;
(i) Hire, promote, or reinstate the complainant or end the complainant's suspension form employment;
(ii) award the complainant back pay to the day of the violation;
(iii) grant the complainant leave or seniority;
(iv) take appropriate disciplinary action against any individual who caused the violation; and
(v) take any other remedial action consistent with the purposes of this subtitle.

1. promptly refer the matter to an appropriate prosecutor;
2. make all pertinent evidence available to the prosecutor; and
3. send to the individual believed to have committed the crime a notice that:
 - (i) contains a statement of the allegation;
 - (ii) notifies the individual that the matter has been referred to a prosecutor;
 - (iii) advises the individual of the individual's right to obtain counsel; and
 - (iv) advises the individual of the individual's right to refuse to respond to the allegation if a response might be incriminating.

§ 5-313. Disclosure of protected information to Attorney General.

For purposes of this subtitle, the Attorney General shall:

1. designate an assistant Attorney General to receive from applicants and employees any information the disclosure of which is otherwise protected by law;
2. investigate each allegation of illegality or impropriety;
3. take appropriate legal action; and
4. if the investigation concerns an allegation of illegality or impropriety in the Executive Branch, submit a confidential report to the Governor that describes the content of the disclosure.

§ 5-314. Confidentiality.

Information obtained as part of an investigation conducted under this subtitle is confidential within the meaning of Title 10, subtitle 6 of the State Government Article.

MAKE A DIFFERENCE

Know that you can make a difference by reporting serious government illegality, waste, abuse of authority and corruption. Your complaint may save lives, stop financial waste, stop fraud and stop abuses of power that betray public trust.

Know that whistleblowing is an increasingly recognized and appropriate practice and its value to the public is very much appreciated.

Know that you can experience the satisfaction of doing something that is morally right.

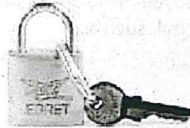
Know that you can raise concerns in a reasonable and responsible way.

Know that your complaint will be dealt with properly and that you are protected from reprisal.

Know that whistleblowing helps to protect public interest and encourages organizational accountability.

Know that disclosing illegal or unethical government practices is "heroic."

TAKE A STAND



SAFE AND CONFIDENTIAL

All investigations into your complaint are strictly confidential. Your information will only be discussed with pertinent individuals who need to know for purposes of investigation and resolution.

It's important to understand that Maryland law prohibits and protects you from reprisal.

WHAT YOU SHOULD KNOW ABOUT MARYLAND WHISTLEBLOWER PROTECTION



Office of the Statewide Equal Employment
Opportunity Coordinator (OSEEOC)

Governor Lawrence J. Hogan, Jr.
Secretary David Brinkley
Statewide EEO Coordinator Glynis Watford











Help Stop Fraud in MD State Government

Dear State Employee:

The Maryland General Assembly's Office of Legislative Audits operates a toll-free fraud hotline for State employees to report allegations of fraud and/or abuse of State resources. Information reported to the hotline in the past has helped to eliminate certain fraudulent activities and protect State resources.

The types of activities that should be reported include, but are not limited to:

-  Fraud
-  Potential Conflicts of Interest
-  Corruption
-  Theft
-  Vendor Kickbacks
-  Questionable Procurement Practices
-  Significant Violations of Laws and Regulations
-  Misuse or Abuse of State Resources

The number to call is 1 (877) FRAUD-11 (or 1 (877) 372-8311). State employees can also use the Internet to report allegations over a secure connection at www.ola.state.md.us (click on "Stop Fraud"). Information received is considered confidential and you can remain anonymous.

The toll-free hotline is available 24 hours a day, 7 days a week. The Office of Legislative Audits is an independent, non-partisan agency that provides audit services to the General Assembly in its oversight capacity.

If you have any questions, please call the hotline for additional information.

Thank you.
Brian Tanen, CPA, CFE
Assistant Director
Office of Legislative Audits

